



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION IX

**75 Hawthorne Street
San Francisco, CA 94105**

E-mail with Receipt

September 29, 2008

Andrew Devegvar
Greka Oil and Gas, Inc.
a.k.a. Greka SMV, a.k.a. Greka Energy
6527 Dominion Road
Santa Maria, CA 93454

Re: EPA Takeover of certain activities at the Gato Ponds

Greka Oil and Gas, Inc. (Greka) has violated the Order for Removal, Mitigation or Prevention of a Substantial Threat of Oil Discharge, Docket No. OPA 311-09-2008-0005 ("the Order").

The August 7, 2008 letter amending the Order ("Amended Order"), established multiple deadlines for the different stages of work. The Amended Order requires Greka to:

- Provide proof of their contractor's compliance with 40 CFR 1910.120, including the written safety and health program (29 CFR 1910.120(b) (1)), proof of training (29 CFR 1910.120(e)), and proof of medical surveillance (29 CFR 1910.120(f)). The deadline for submitting these documents to EPA the close of business on August 11, 2008. Without the required documentation, Greka's contractors are prohibited from conducting work at the site. *Note: This applies to First Response and Speeds. EPA has repeatedly asked for these documents and they have not been provided. Greka previously met this requirement under Order for Removal, Mitigation or Prevention of a Substantial Threat of Oil Discharge, Docket No. OPA 311-09-2008-0001.*
- Move the fluids off-site for appropriate disposal pursuant to Section 22a of the Order no later than August 31, 2008. *Note: EPA acknowledges that the ponds are now emptied, but they were not emptied by the required date.*
- Comply with the requirements of Section 22b of the Order no later than September 5, 2008. Greka must provide the report on the structural integrity of the ponds to EPA no later September 19, 2008.

Greka has also violated Sections 19 (submittal of Work Plan) and 20 (submittal of Confirmation Sampling Plan ("CSP")) of the Order. EPA has reviewed the Work Plan and the CSP three times and provided Greka and its contractor with comments. Greka's contractor, First Response, has, after three attempts, failed to submit adequate Work Plans and CS P, and has been judged by EPA, in consultation with its state and

local agency partners, to be unqualified to perform the work required at the site in an effective and timely manner. As a result, pursuant to Section 23 of the Order, EPA disapproves the Work Plan and the CSP. The Health and Safety Plan (HASP) for Greka employees only, pursuant to Section 19 of the Order has been approved. The approved HASP does not apply to First Response or any other contractors working on-site for Greka. Pursuant to 29 CFR 1910.120(b)(1)(i): "Employers shall develop and implement a written safety and health program for their employees involved in hazardous waste operations." This includes the preparation of a site specific safety and health plan (29 CFR 1910.120(b)(1)(ii)(C)). This means each employer must have their own HASP for the work on-site.

Greka is required pursuant to Section 28 to provide weekly reports on the activities at Gato Ponds. EPA has not been provided these weekly reports.

Pursuant to Section 26, of the Order, EPA is taking over the following activities under Sections 22b and 22d:

- Structural analysis of the ponds to determine their structural integrity (22b);
- Assessment of the potential subsurface soil and groundwater contamination (22d).

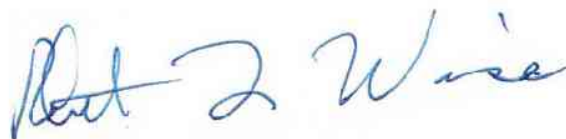
EPA expects to be on-site on or about October 20, 2008 to conduct the assessment.

Greka is still responsible for implementing the remaining activities under the Order. Greka must provide a Work Plan and CSP for EPA approval. Greka may use the existing plans, if EPA's comments are properly addressed. The amended plans must be provided to EPA no later than October 31, 2008. Failure to provide an adequate plans will result in the take over of all activities at the site pursuant to Section 26 of the Order. If the soil assessment documents contaminant levels below the action levels, EPA will notify Greka that no further action is required.

Failure to comply with the conditions as stated above and provide the weekly reports as required pursuant to Section 28 of the Order may result in penalties of \$32,500 per day per violation pursuant to Section 27 of the Order.

If you have any questions please do not hesitate to contact OSC Robert Wise at (562) 889-2572 or for legal questions, contact Michael Massey, Office of Regional Counsel at (415) 972-3034.

Sincerely,



Robert Wise
Emergency Response Section
Superfund Division

Greka Acknowledgement of Receipt

Date

cc: Michael Massey, EPA
Steve Calanog, EPA
Jason Musante, EPA
Daniel Meer, EPA
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